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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,612	08/28/2003	Yoshitsugu Kato	1035 -466	5283
23117	7590	01/21/2005	EXAMINER	
NIXON & VANDERHYE, PC				PRETLOW, DEMETRIUS R
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ARLINGTON, VA 22201-4714				
ART UNIT		PAPER NUMBER		
		2863		

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/649,612	KATO ET AL.	
	Examiner	Art Unit	
	Demetrius R. Prelow	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 6 and 7 is/are allowed.
- 6) Claim(s) 1,5,7,8 and 12 is/are rejected.
- 7) Claim(s) 2-4,6,9-10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 August 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,5,7,8,12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. The examiner can not determine the scope of the claim because the claims lacks structure.

Claims 2-4,6,9-12 are objected for depending on the independent claims noted above.

Specification

The disclosure is objected to because of the following informalities:

The phrase "system identification" is used throughout the disclosure and the claims , however there is no clear definition to support this term.

Appropriate correction is required.

Allowable Subject Matter

Claims 6-11 are allowed.

The best prior art of record particularly , Kozlowski et al. teach a method for determining a condition parameter of an electrochemical cell, such as in a battery, includes the step of obtaining condition data correlated with the condition

parameter. However Kozlowski et al, does not teach the following claim limitations.

The primary reason for the allowance of claim 6 is the inclusion of the combined limitations of an a circuit section for constituting a closed circuit by serially connecting the battery to a current load when diagnosing the battery; a measuring section, connected to the circuit section, for measuring a terminal voltage of the battery and a current flowing in the circuit section; and a diagnosing section for diagnosing, by the system identification method, a state of the battery based on a result of measurement by the measuring section. It is these limitations found in each of the claims, as they are claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art.

The primary reason for the allowance of claim 7 is the inclusion of the limitations of an the battery being a fuel cell that is not supplied with fuel, circuit section for constituting a closed circuit by serially connecting the battery to a voltage source when diagnosing the battery; a measuring section, connected to the circuit section, for measuring a terminal voltage of the battery and a current flowing in the circuit section; and a diagnosing section for diagnosing, by the system identification method, a state of the battery based on a result of measurement by the measuring section. It is these limitations found in each of the claims, as they are claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Demetrius R. Pretlow whose telephone number is (703) 272-2278. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Demetrius R. Pretlow



1/11/05

Patent Examiner



John Barlow
Supervisory Patent Examiner
Technology Center 2800